

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC.,  
FOREST LABORATORIES HOLDINGS,  
LTD., MERZ PHARMA GMBH & CO.  
KGAA, and MERZ PHARMACEUTICALS  
GMBH,

Plaintiffs,

v.

COBALT LABORATORIES INC., LUPIN  
PHARMACEUTICALS, INC., LUPIN LTD.,  
ORCHID PHARMACEUTICALS INC.,  
ORCHID CHEMICALS &  
PHARMACEUTICALS LTD. (d/b/a ORCHID  
HEALTHCARE), TEVA  
PHARMACEUTICALS USA, INC.,  
UPSHER-SMITH LABORATORIES, INC.,  
WOCKHARDT USA INC., and  
WOCKHARDT LIMITED,

Defendants.

C.A. No. 08-21 (GMS) (LPS)

**PLAINTIFFS' RULE 30(b)(6) NOTICE OF DEPOSITION FOR  
ORCHID CHEMICALS & PHARMACEUTICALS LTD.  
IN CONNECTION WITH JURISDICTIONAL DISCOVERY**

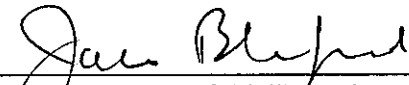
PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6), Fed. R. Civ. P., and the parties' Stipulated Jurisdictional Discovery Schedule (D.I. 64), Plaintiffs Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd., Merz Pharma GmbH & Co. KGaA, and Merz Pharmaceuticals GmbH (collectively, "Plaintiffs") will take the deposition upon oral examination of Defendant Orchid Chemicals and Pharmaceuticals, Ltd. ("Orchid India") regarding the subject matter set forth in the attached Schedule A.

This deposition will begin at 9:30 a.m. on May 23, 2008 at the offices of Kirkland & Ellis LLP, Citigroup Center, 153 E. 53rd Street, New York, New York, or at such other time

and place as may be agreed upon by counsel in writing. The examination will be taken before an officer authorized to administer oaths pursuant to Rule 28, Fed. R. Civ. P., and will continue from day to day until completed. The testimony at the deposition will be recorded by videographic and stenographic means.

In accordance with Rule 30(b)(6), Fed. R. Civ. P., Orchid India shall designate one or more officers, directors, managing agents or other persons who consent to testify on its behalf as to each of the topics set forth in the attached Schedule A. Plaintiffs request that Orchid India provide counsel for Plaintiffs with the identity and *curriculum vitae* of each of the individual(s) who will testify regarding each topic at least four business days in advance of the deposition.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

  
\_\_\_\_\_  
Jack B. Blumenfeld (#1014)  
Maryellen Noreika (#3208)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899-1347  
(302) 658-9200  
jblumenfeld@mnat.com  
mnoreika@mnat.com

*Attorneys for Plaintiffs*

*Of Counsel:*

John Desmarais  
Gerald J. Flattmann, Jr.  
Melanie R. Rupert  
KIRKLAND & ELLIS LLP  
Citigroup Center  
153 East 53rd Street  
New York, NY 10022  
(212) 446-4800

F. Dominic Cerrito  
Daniel L. Malone  
Eric C. Stops  
JONES DAY  
222 East 41st Street  
New York, NY 10017  
(212) 326-3939

April 24, 2008

## **SCHEDULE A**

### **Definitions and Instructions**

The definitions set forth in Plaintiffs' Requests for the Production of Documents and Things in Connection with Jurisdictional Discovery from the Orchid Defendants are hereby incorporated by reference.

### **Topics of Examination**

1. Any activities of Orchid occurring in Delaware from 2002 to present.
2. Any contractual, employment or business relationship between Orchid and any person or entity located or incorporated in Delaware.
3. Orchid's development of any product offered for sale in the United States, including Delaware, from 2002 until the present.
4. Any sale or offer for sale of any product or service by Orchid in the United States, including Delaware, from 2002 until the present.
5. Any advertisements, promotions, marketing, sales calls or other solicitations of business by Orchid in the United States, including in Delaware, from 2002 until the present.
6. The identity and volume, in dollar, unit and percentage amounts, of any Orchid products sold, distributed, imported, dispensed or otherwise handled generally in the United States, including in Delaware, from 2002 until the present.
7. Orchid's expectations or projections for sales of the generic product defined by Abbreviated New Drug Application ("ANDA") No. 90-044 in the United States, including in Delaware.

8. Any property, office space, industrial space, warehouse space or tangible items that Orchid has owned or leased in Delaware from 2002 until the present, and the use of such property.

9. Any registration, license, or permit, or application therefore, by Orchid with or to any Delaware governmental entity.

10. Any agreements or contracts entered into between Orchid and any person or entity located or incorporated in Delaware.

11. Any purchases by Orchid from vendors or suppliers located or incorporated in Delaware.

12. Any seminars, trade shows, conferences, conventions, symposia or meetings that Orchid or its employees or agents have attended in Delaware from 2002 until the present.

13. Any Medicaid payments that have been tendered directly or indirectly to Orchid in consideration for the sale of any Orchid product or service in Delaware from 2002 until the present.

14. The corporate relationship between and among Orchid India, Orchid Pharmaceuticals Inc., and Orgenus Pharma Inc.

15. The relationship between Orchid India and any subsidiaries or other affiliated companies incorporated or with a principal place of business in Delaware.

16. The preparation and submission of Abbreviated New Drug Application ANDA. No. 90-044 and its concurrent Paragraph IV certification.

17. Orchid's pre-suit knowledge of any Plaintiff or the NAMENDA<sup>®</sup> brand memantine products.

18. Orchid's expectations of, or preparations for, being sued by either Plaintiff for patent infringement in response to ANDA No. 90-044 and its concurrent Paragraph IV certification against Plaintiffs' patent.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:.

Mary B. Matterer, Esquire  
MORRIS JAMES LLP

Kelly E. Farman, Esquire  
RICHARDS, LAYTON & FINGER, P.A.

Frederick L. Cottrell, III, Esquire  
Anne Shea Gaza, Esquire  
RICHARDS, LAYTON & FINGER, P.A.

Richard L. Horwitz, Esquire  
David E. Moore, Esquire  
POTTER ANDERSON & CORROON LLP

Richard D. Kirk, Esquire  
Ashley B. Stitzer, Esquire  
BAYARD, P.A.

I further certify that I caused to be served copies of the foregoing document on April 24, 2008 upon the following in the manner indicated:

Mary B. Matterer, Esquire  
MORRIS JAMES LLP  
500 Delaware Avenue  
Suite 1500  
Wilmington, DE 19801  
*Counsel for Cobalt Laboratories Inc.*

*VIA ELECTRONIC MAIL  
and HAND DELIVERY*

William A. Rakoczy, Esquire  
Paul J. Molino, Esquire  
Deanne M. Mazzochi, Esquire  
Neil A. Benchell, Esquire  
John Polivick, Esquire  
RAKOCZY MOLINO MAZZOCHI SIWIK LLP  
6 West Hubbard Street  
Suite 500  
Chicago, IL 60610  
*Counsel for Cobalt Laboratories Inc.*

*VIA ELECTRONIC MAIL*

Kelly E. Farnan, Esquire  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
*Counsel for Wockhardt USA Inc. and  
Wockhardt Limited*

*VIA ELECTRONIC MAIL  
and HAND DELIVERY*

Michael Dzwonczyk, Esquire  
Mark Boland, Esquire  
Chid Iyer, Esquire  
SUGHRUE MION, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 23307  
*Counsel for Wockhardt USA Inc. and  
Wockhardt Limited*

*VIA ELECTRONIC MAIL*

Frederick L. Cottrell, III, Esquire  
Anne Shea Gaza, Esquire  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
*Counsel for Upsher-Smith Laboratories Inc.*

*VIA ELECTRONIC MAIL  
and HAND DELIVERY*

Richard L. Horwitz, Esquire  
David E. Moore, Esquire  
POTTER ANDERSON & CORROON LLP  
1313 North Market Street – 6<sup>th</sup> Floor  
Wilmington, DE 19801  
*Counsel for Orchid Pharmaceuticals Inc. and  
Orchid Chemicals & Pharmaceuticals Ltd  
(d/b/a Orchid Healthcare)*

Kenneth G. Schuler, Esquire  
LATHAM & WATKINS LLP  
Sears Tower – Suite 5800  
233 South Wacker Drive  
Chicago, IL 60606  
*Counsel for Orchid Pharmaceuticals Inc. and  
Orchid Chemicals & Pharmaceuticals Ltd  
(d/b/a Orchid Healthcare)*

*VIA ELECTRONIC MAIL*



Terrence J. Connolly, Esquire  
LATHAM & WATKINS LLP  
885 Third Avenue -- Suite 1000  
New York, NY 10022-4834  
*Counsel for Orchid Pharmaceuticals Inc. and  
Orchid Chemicals & Pharmaceuticals Ltd  
(d/b/a Orchid Healthcare)*

*VIA ELECTRONIC MAIL*

Darryl H. Steensma, Esquire  
LATHAM & WATKINS LLP  
12636 High Bluff Drive -- Suite 300  
San Diego, CA 92130  
*Counsel for Orchid Pharmaceuticals Inc. and  
Orchid Chemicals & Pharmaceuticals Ltd  
(d/b/a Orchid Healthcare)*

*VIA ELECTRONIC MAIL*

Richard D. Kirk, Esquire  
Ashley B. Stitzer, Esquire  
BAYARD, P.A.  
222 Delaware Avenue  
Suite 900  
Wilmington, DE 19801  
*Counsel for Lupin Pharmaceuticals USA, Inc.  
and Lupin, Ltd.*

*VIA ELECTRONIC MAIL  
and HAND DELIVERY*

Douglass C. Hochstetler, Esquire  
D. Christopher Ohly, Esquire  
Sailesh K. Patel, Esquire  
SCHIFF HARDIN LLP  
6600 Sears Tower  
Chicago, IL 60606  
*Counsel for Lupin Pharmaceuticals USA, Inc.  
and Lupin, Ltd.*

*VIA ELECTRONIC MAIL*

  
\_\_\_\_\_  
Jack B. Blumenfeld (#1014)